

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

HALLIBURTON COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2157

Decision No. CU 1426

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$170,000.00 was presented by HALLIBURTON COMPANY, formerly Halliburton Oil Well Cementing Company, based upon the asserted loss of certain equipment and supplies in Cuba.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interests including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

The record discloses that claimant corporation was organized in the State of Delaware under the name of Halliburton Oil Well Cementing Company; that on June 28, 1960, it changed its name to HALLIBURTON COMPANY; and that at all times between 1924 and presentation of this claim on April 26, 1967, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant states that as of April 10, 1967, 99.173% of its outstanding capital stock was held by residents of the United States and .827% was held by residents elsewhere.

The record reveals that claimant was engaged in the business of cementing and finishing of oil wells and related activities in Cuba and that through a series of Cuban Government actions in 1959 and 1960, oil well drilling and exploration activities in Cuba by customers of the claimant were halted with the result that claimant ceased operations and moved all United States personnel from Cuba. Claimant states that it made every effort to remove its equipment and supplies from Cuba as well; however, approval for such removal was not granted by the Government of Cuba. Subsequently, one J. D. Thornton, an employee of the claimant, returned to Cuba in June 1960 in an effort to sell the subject equipment and supplies since they could not be exported.

By contract dated July 29, 1960, claimant sold to the Instituto Cubano Del Petroleo all of its equipment and supplies in Cuba. After the execution of the contract Mr. Thornton left Cuba. However, the Instituto Cubano Del Petroleo never delivered the letter of credit in the amount of \$170,000.00 as provided for in the contract, the final day for payment assertedly having been October 12, 1960. Claimant states that it has never been able to export the equipment nor has it ever received payment under the contract.

The record includes a letter of Intention dated July 29, 1960 executed by the Director General of the Instituto Cubano Del Petroleo and J. D. Thornton, General Agent for claimant, and a copy of the July 29, 1960 contract, to which was attached an inventory of the equipment covered thereby. The sales price agreed upon by the parties was \$170,000.00. The record also includes an itemized inventory listing each article with its original cost and the date acquired. Also attached to the contract is a document signed by claimant's agent and the Director General to the Cuban Bank of Foreign Commerce requesting authorization for the issuance of an irrevocable letter of credit in favor of the claimant to cover the purchase of the goods listed in the contract.

The record reflects that Halliburton Oil Well Cementing Company was listed as nationalized in Resolution 3 (pursuant to Cuban Law 851) published by the Government of Cuba in its Official Gazette on October 24, 1960.

Accordingly, the Commission finds that the assets in Cuba of Halliburton Oil Well Cementing Company, specifically the property which was the subject of the contract of July 29, 1960, was nationalized by the Government of Cuba on October 24, 1960, within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, going concern value or cost of replacement. The Commission has carefully considered all of the above-described evidence of record pertaining to value and finds that the amount of \$170,000.00 is a fair value for the equipment which was taken by the Government of Cuba on October 24, 1960. Therefore, the Commission concludes that claimant succeeded to and suffered a loss in that amount, within the meaning of Title V of the Act.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that HALLIBURTON COMPANY succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Seventy Thousand Dollars (\$170,000.00) with interest thereon at 6% per annum from the date of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAY 17 1968

Francis Thastum

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba,

Clerk of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)